IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 13030 of 2007(A)

PETITIONER:

MANEESHA K.VIJAYAN,KILLIRUKUNNEL HOUSE,
UDAYAGIRI P.O, ALAKODE (VIA) KANNUR - 670 571.

BY ADV. SRI.V.C.JAMES
SRI.GEORGE MECHERIL

RESPONDENTS:

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1. DISTRICT OFFICER, KERALA PUBLIC SERVICE COMMISSION,DISTRICT OFFICE,KANNUR.

2. THE KERALA PUBLIC SERVICE COMMISSION, REPRESENTED BY ITS SECRETARY.

3. DEPUTY DIRECTOR OF EDUCATION,KANNUR.

4. DISTRICT EDUCATIONAL OFFICER,KANNUR.

BY GOVERNMENT PLEADER SRI.A.J.VARGHESE.
SRI.P.C.SASIDHARAN, SC, KPSC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/07/2007, ALONG WITH WPC NO. 937 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K.BASHEER, J.

W.P.(C)Nos.13030 & 937 OF 2007

Dated this the 2nd day of July, 2007

JUDGMENT

These two writ petitions are at the instance of candidates who have been included in the ranked list of HSA (Natural Science) published by the Kerala Public Service Commission. They seek for a direction to advise them for appointment to the existing vacancies.

2. It is not in dispute that the validity of the list expired on April 27, 2007. However, by an interim order dated April 13, 2007 this court had directed the Deputy Director of Education, Kannur to report nine vacancies provisionally, on or before the date of expiry of the list. It is on record that the above direction had been complied with.

3. When this writ petition came up for further consideration on June 8, 2007 this court had directed respondent no.3 to file an affidavit indicating the number of vacancies available as on the date of expiry of the list. In the affidavit dated June 19, 2007 respondent no.3 has stated thus in Para 4:

> "On 31st March 2007 two vacancies cropped up by Inter District Transfer and by way of promoting has as Higher Secondary School Teacher. Another two vacancies arose due to the retirement on 31.3.2007. The total vacancies as on 27.4.2007 are four (4), in addition to the earlier 37 vacancies reported"

4. It is true that the averment in the above paragraph may indicate that the four vacancies mentioned therein may have to be adjusted towards the two categories referred to. But still the succeeding paragraph in the affidavit (Para 7) further indicates that five other promotion vacancies have also arisen after the expiry of the list. This indicates that it is an ongoing process, and vacancies may arise off and on. The department may have to fill up the vacancies in the prescribed quota. But the fact remains that four vacancies were available as on April 27, 2007 when the list expired.

5. In the peculiar facts and circumstances, particularly in the absence of any specific averment in the additional affidavit filed by respondent no.3, I do not find any reason why the

Commission shall not be directed to advise four vacancies referred to in the additional counter affidavit. Therefore, the Commission is directed to advise the four vacancies which have been reported already in accordance with rules of rotation, reservation etc. On receipt of the advice, the department shall issue orders of appointment to the eligible candidates. This shall be done as expeditiously as possible, at any rate, within one month from the date of receipt of advice.

Writ petitions are disposed of as above.

A.K.BASHEER, JUDGE

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